IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 16438 of 1994

Between:

1. Jagarlamudi Vasudeva Prasad (Died)

2. J.venkata Ramanamma, W/o. Late Vasudeva Prasad, R/o Opp. Railway Station, Chirala, Prakasam District.

(Petitioner No.2 is brought on record as LR of the deceased sole Petitioner as per court order, dt.26.9.2000, in W.P.M.P.No.21547 of 2000.)

..... PETITIONERS

AND

1. Andhra Pradesh State Financial Corporation, Hyderabad, rep. by its Law Officer, Chirag-Ali-Lane, Hyderabad.

2. The Mandal Revenue Officer, Karamchedu(M), Karamchedu, Prakasam Dist.
3. The Village Assistant Officer, Karamchedu, Prakasam Dist.
4. The Dist Collector, Ongole, Prakasam Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction, especially in the nature of a Writ of Certiorari/Mandamus, calling for the records relating to the impugned distraint order dt.20-07-1994 issued under section 8 of the Andhra Pradesh Revenue Recovery Act,1864 by the Mandal Revenue Officer, Karamchedu, Prakasam District, and the notice Rc.E/94, dated 30-07-1994 issued by the said Mandal Revenue Officer, demanding payment of Rs.9,58,279-37 ps., and the same as being illegal, without jurisdiction, opposed to the principles of natural justice and void, and restrain the respondents from recovering the amounts said to be due to the Andhra Pradesh State Financial Corporation, Hyderabad under the mortgage deeds dt.28-12-1962 and 09-01-1964 executed by M/s. Gouri Sankar Glass Syndicate (Pvt) Ltd., Jandrapet and pass such other and further orders to meet the ends of justice.

Counsel for the Petitioner: MR.K.HARINATH

Counsel for the Respondent No.1: Mr. Y.N. Lohita, Standing Counsel

Counsel for the Respondents 2 to 4: GP FOR REVENUE

The Court made the following :

ORAL ORDER:

This writ petition is filed challenging the distraint order dated 20.07.1994 issued under Section 8 of the Andhra Pradesh Revenue Recovery Act, 1864 by the Mandal Revenue Officer, Karamchedu, Prakasam District, and the notice Rc.E/94, dated 30.07.1994 issued by the said Mandal Revenue Officer, demanding payment of Rs.9,58,279-37 ps. and also restrain the respondents from recovering the amounts said to be due to the Andhra Pradesh State Financial Corporation, Hyderabad under the mortgage deeds dated 28.12.1962 and 09.01.1964 executed by M/s. Gouri Sankar Glass Syndicate (Pvt) Ltd., Jandrapet.

The petitioner submits that he along with others stood as guarantor for the loan sanctioned to M/s. Gouri Sankar Glass Syndicate Private Limited, Jandrapet by the 1st respondent-Financial Corporation. Later on, the said Gouri Sankar Glass Syndicate was closed, and the impugned notices were served on him demanding payment of Rs.9,58,279-37 ps. by 20.08.1994 and authorizing the Village Assistant Officer, Karamchedu to distrain the properties of the

petitioner if he failed to pay the amount. The impugned order and notice were issued without giving any opportunity of being heard and as such they are absolutely without jurisdiction, null and void.

It has been contended by learned counsel for the petitioner that before issuing the distraint order dated 20.07.1994 under the provisions of Revenue Recovery Act, no notice has been issued to the petitioner calling upon him to show cause as to why the amount of Rs.9,58,279.37 ps., shall not be recovered from him. The distraint order annexed to the writ petition goes to show that the petitioner got issued a reply on 17.08.1994 through his counsel to the 2nd respondent-Mandal Revenue Officer, Karamchedu, Prakasam District. According to the petitioner's counsel, two notices dated 20.7.1994 and 30.7.1994 were issued and a reply has been issued by the petitioner on 17.8.1994 to the above notices. In the meanwhile the present writ petition has been filed and the petitioner obtained stay of operation of the order passed in pursuance of distraint order dated 20.07.1994. Learned counsel for the petitioner further argued that the respondent has not chosen to pass any orders. However, learned counsel for the respondents submits that in view of the stay order, no further orders have been passed.

Under the above circumstances, without going into merits of the case, it would suffice in the interest of justice, if a direction is issued to the 2nd respondent-Mandal Revenue Officer to pass appropriate order on the reply dated 17.08.1994 given by the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. Till such order is passed, the interim stay granted by this Court on 02.11.1994 shall continue.

Accordingly the Writ Petition is disposed of. No costs.

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15th July, 2004

Nsr/Gsn

To

1. The Law Officer, Andhra Pradesh State Financial Corporation, Hyderabad, Chirag-Ali-Lane, Hyderabad.

2. The Mandal Revenue Officer, Karamchedu(M), Karamchedu, Prakasam Dist.
3. The Village Assistant Officer, Karamchedu, Prakasam Dist.
4. The Dist Collector, Ongole, Prakasam Dist.

5. Two CCs to GP for Revenue, High Court Buildings, Hyderabad (OUT)

6. Two CD copies.